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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,437		Herfried Lammer	2418.0128-00	4755

7590 10/21/2002
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

EXAMINER

CHIU, RALEIGH W

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 10/21/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

LC

Office Action Summary

Application No.

09/918,437

Applicant(s)

LAMMER, HERFRIED

Examiner

Raleigh Chiu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9. 6) ☐ Other:

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe on 01 August 2001. It is noted, however, that applicant has not filed a certified copy of the 0016596.8 application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vandergrift in view of Lazarus and Hagood as applied in the previous Office action.

New claim 11 is similar to claim 1 but lacks the laminated limitation and therefore is unpatentable over Vandergrift, Lazarus and Hagood for the same reasons.

Regarding claims 12-14, Hagood discloses the use of piezoelectric fibers. See column 5, lines 5-34.

Response to Arguments

4. Applicant's arguments filed 12 August 2002 have been fully considered but they are not persuasive.

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Regarding the piezoelectric transducers laminated to the frame, a laminated structure can be defined as one made up of thin layers or sheets. As such, Figure 1 of Hagood shows a thin layer of piezoelectric composite fibers 14 sandwiched between structural layers 11,12 (e.g., carbon-fiber reinforced composite materials) and therefore is considered to correspond to the recited laminated structure. Also, see Hagood at the bridging paragraph between columns 4-5.

Regarding claims 6-10, it is not believed that the rejection in the previous Office action anywhere takes Official notice of certain facts nor is it the examiner's position that the control circuit located in the racquet handle is not unquestionably well-known as stated in applicant's Remarks on pages 5-6. Rather, it should be realized that the control circuitry of the Vandergrift racquet as modified above must be located on the racquet itself, i.e., the frame or handle. As such, because applicant has not disclosed that having the circuitry located in his specific location solves any stated problem or is for any particular purpose and because the location of the circuitry does not impact the degree or effect of vibration damping, one of ordinary skill in the art would have found it an obvious design choice to place the circuitry anywhere on the racquet, including the handle. Moreover, the

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material displaced from the handle to accommodate the circuitry would clearly and broadly correspond to the recited slot.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (703) 308-2247. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126.

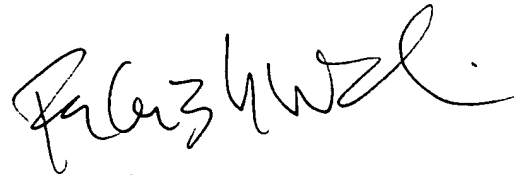
The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3579.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

A handwritten signature in black ink, appearing to read 'Raleigh W. Chiu', written in a cursive style.

Raleigh W. Chiu
Primary Examiner
Technology Center 3700

RWC:dei:feif
17 October 2002